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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,056	09/09/2003	Andreas Blumenthal	13913-083001 / 2002P10217	3806
32864	7590	10/10/2006		EXAMINER
FISH & RICHARDSON, P.C. PO BOX 1022 MINNEAPOLIS, MN 55440-1022				CHOU, ANDREW Y
			ART UNIT	PAPER NUMBER
				2192

DATE MAILED: 10/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/659,056	BLUMENTHAL ET AL.	
	<b>Examiner</b> Andrew Y. Chou	<b>Art Unit</b> 2192	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 09 September 2003.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-19 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 1-19 is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_

5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_

## **DETAILED ACTION**

1. Claims 1-19 have been examined. Claims 1, 13, and 17 are independent claims. The priority date recognized for this application is 09/09/2003.

### ***Oath/Declaration***

2. The Office acknowledges receipt of a properly signed oath/declaration filed on 00/09/2003.

### ***Claim Objections***

3. Claims 14-16 recites in line 1 of the claims "The apparatus of claim 12", and instead should be – The apparatus of claim 13 --. Claims 18 and 19 recite in line 1 of the claims "The method of claim 16" and instead should be – The method of claim 17 --. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Bates et al. US 2003/02117354 A1 (hereinafter Bates).

**Claim 1:**

Bates discloses a computer program product (pages 6-7, computer readable medium), tangibly embodied on an information carrier, comprising instructions operable to cause data processing apparatus to:

establish any number of checkpoints in a first computer program (see for example page 3, [0040], lines 3-9); and

include each checkpoint in a checkpoint group, wherein each checkpoint group can include any number of the checkpoints regardless of where the checkpoints are in the first computer program (see for example FIG. 2, item 150, "breakpoint table").

**Claim 2:**

Bates further discloses the product of claim 1, wherein the checkpoints comprise assertion statements and breakpoint statements (see for example page 3, [0040], lines 3-9).

**Claim 3:**

Bates further discloses the product of claim 1, further comprising instructions to: establish activation variants to enable checkpoint groups or compilation units or both to be managed jointly (see for example page 3, [0041], "Dcodes").

**Claim 4:**

Bates further discloses the product of claim 1, further comprising instructions to: receive a control input activating a first checkpoint group; and activate the checkpoints in the first checkpoint group (see for example FIG. 12A, step 1220, and related text).

**Claim 5:**

Bates further discloses the product of claim 4, wherein the control input further specifies a mode and the mode comprises one of:

activating checkpoints that are assertions to terminate on assertion failure (see for example FIG. 12B, step 1230, and related text);

activating checkpoints that are assertions to log status on assertion failure (see for example FIG. 12B, step 1230, and related text); and activating checkpoints that are assertions to break in a debugger on assertion failure (see for example FIG. 12B, step 1230, and related text).

**Claim 6:**

Bates further discloses the product of claim 4, further comprise instructions to: receive a control input specifying a scope (see for example FIG. 12A, steps 1204, 1206, and related text).

**Claim 7:**

Bates further discloses the product of claim 4, further comprise instructions to:

receive a control input specifying a scope specifying that activating is to be performed only for a particular user of the first computer program, that activating is to be performed only for a particular server on which the first computer program is running, or that activating is to be performed globally (see for example

FIG. 12A, steps 1204, 1206, and related text).

**Claim 8:**

Bates further discloses the product of claim 1, wherein the checkpoints and the first computer program are in a source code form (see for example page 4, [0046], FIG. 4, and related text).

**Claim 9:**

Bates further discloses the product of claim 8, wherein:

the checkpoints comprise assertion statements, each assertion statement when activated testing whether a specified assertion condition is true or false (see for example FIG. 2, item 126, "expression evaluator"); and

the checkpoints comprise breakpoint statements, each breakpoint statement when activated halting program execution when it is encountered during program execution (see for example FIG. 2, item 130, "breakpoint manager").

**Claim 10:**

Bates further discloses the product of claim 8, wherein:

the assertion statements comprise an assertion statement having an argument to activate logging with programmer-controlled granularity (see for example FIG. 10, item 1000, "dialog box", and related text).

**Claim 11:**

Bates further discloses the product of claim 8, further comprising instructions to establish a development environment for developing the first computer program in which the checkpoint groups are development objects (see for example FIG

10. and related text).

**Claim 12:**

Bates further discloses the product of claim 1, wherein the checkpoints and the first computer program are in a compiled form (see for example page 3, [0037],

FIG. 1, item 119, and related text).

**Claim 13:**

Bates discloses an apparatus (see for example FIG. 1, and related text),

comprising:

means for establishing any number of checkpoints in a computer program (see for example page 3, [0040], lines 3-9); and

means for including each checkpoint in a checkpoint group, wherein each checkpoint group can include any number of the checkpoints regardless of where the checkpoints are in the computer program (see for example FIG. 2, item 150, "breakpoint table").

**Claim 14:**

Bates further discloses the apparatus of claim 13, wherein: the checkpoints comprise assertions and breakpoints (see for example page 3, [0040], lines 3-9).

**Claim 15:**

Bates further discloses the apparatus of claim 13, further comprising: means for associating an activation variant with a checkpoint group (see for example page 3, [0041], "Dcodes").

**Claim 16:**

Bates further discloses the apparatus of claim 13, further comprising: means for associating an activation variant with a compilation unit (see for example page 3, [0041], "Dcodes").

**Claim 17:**

Bates discloses a method, comprising:

receiving a computer program having checkpoints each identified by a group identifier, each group identifier identifying checkpoints without limitation as to the location of the checkpoints in the computer program, each checkpoint being an assertion or a breakpoint (see for example page 3, [0040], lines 1-9); and

receiving user input to invoke checkpoints as a group according to their group identifiers (see for example page 3, [0043], "stop handler").

**Claim 18:**

Bates further discloses the method of claim 17, further comprising:

receiving a user input specifying a mode of invocation of checkpoints; and invoking checkpoints according to the specified mode (see for example FIG. 12B, steps 1226, and related text).

**Claim 19:**

Bates further discloses the method of claim 17, further comprising:

receiving a further user input specifying a scope of invocation of checkpoints (see for example Fig. 12A, step 1206, and related text), the scope specifying that checkpoints are to be invoked only for a particular user of the first computer program (see for example FIG. 12A, step 1208, and related text), that

checkpoints are to be invoked only for a particular server on which the first computer program is running, or that checkpoints are to be invoked globally; and invoking checkpoints according to the specified scope (see for example FIG. 12A, step 1208, and related text).

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Y. Chou whose telephone number is (571) 272-6829. The examiner can normally be reached on Monday-Friday, 8:00 am – 4:30 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam, can be reached on (571) 272-3695.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273 8300.

Any inquiry of a general nature of relating to the status of this application or proceeding should be directed to the TC 2100 Group receptionist whose telephone number is (571) 272 2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public

PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

AYC



TUAN DAM  
SUPERVISORY PATENT EXAMINER